

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SKILLZ PLATFORM INC.,
a Delaware corporation,

Plaintiff,

-against-

VOODOO SAS, a foreign corporation;
ESPORT NEWCO SAS, a foreign
corporation; and ESPORT NEWCO US
CORP., a Delaware corporation,

Defendants.

Civil Action No.:

COMPLAINT

Plaintiff Skillz Platform Inc. (“Skillz” or “Plaintiff”), by and through its undersigned counsel, brings this action against Defendants Voodoo SAS, Esport Newco SAS, and Esport Newco US Corp. (together, “Voodoo,” or “Defendant”) and alleges as follows:

I. INTRODUCTION

1. This action challenges Defendant Voodoo’s unlawful conduct and fraud on the public in falsely advertising its mobile games offered through the “Blitz Win Cash” application as “fair” and “skill-based” when Voodoo is fixing the outcome of its tournaments through the use of computer algorithms or “bots.” Indeed, Voodoo populates its tournaments with fake scores and determines how its human players perform as relative to those fake scores—and, therefore, how much its human players win or lose to Voodoo.

2. Voodoo straight out lies about its use of bots to its players and the broader market, promising, for example, on the Blitz Win Cash website: “No bots allowed! Play against real opponents only.” And flatly (and falsely) denies its use of bots in its marketing materials and

promotional statements, including in response to negative user reviews, in order to fraudulently induce skeptical players to keep playing.

3. Voodoo's use of algorithms to determine the outcome of its tournaments turns what might otherwise be legal games of human skill into illegal games of chance or gambling in which Voodoo's unwitting participants have little or no influence on the outcome of any game. And, by deploying bots or algorithms to determine how much players win when their money is on the line, Voodoo can generate revenue for itself with each game played.

4. Over the past ten years, the mobile gaming industry, which was largely created by Plaintiff Skillz, has skyrocketed in popularity. Skillz's revolutionary gaming platform hosts Skillz games such as "Solitaire Cube" and "21 Blitz," and it pairs people in head-to-head, skill-based competitions with cash prizes on the line. Skillz matches competitors based on their level of ability; accordingly, the speed of Skillz's player matching process varies depending on how many players, and at what skill level, are active on Skillz's platform at any given time.

5. Voodoo, like with a number of more recent entrants to the mobile gaming market, capitalized on Skillz's success by launching the application "Blitz Win Cash," which offers imitations of Skillz's games, with similar objectives, game play, and financial stakes for players. Although Voodoo advertises that "everybody has an opportunity to win!" when playing its games, the outcome of its games are manipulated and controlled by Voodoo. By using algorithms to control the rate at which players win, Voodoo can maximize its profits by letting players win just enough that they don't quit and leave the platform altogether.

6. Voodoo has deceived thousands of consumers—many of whom have relied on Voodoo's false and misleading representations about its player base—who have paid to play Voodoo games against other players of their skill level. Throughout its website and apps, Voodoo

claims, “[t]his is not just any gaming app, it’s a fair, skill-based competition app.” Furthermore, Voodoo represents that “rivals are at a similar level, so everybody has an opportunity to win!” Voodoo claims to be available only to players who are 21 years of age or older. Voodoo also represents that it does not have a vested interest in who wins or loses nor does it profit on the outcome of matches and tournaments on its application. All of these statements—and countless others made by Voodoo both on its mobile application and elsewhere—are false and misleading.

7. Voodoo’s false and deceptive marketing materials, advertisements, and other public statements—along with its use of bots in and of itself—violate the Lanham Act’s prohibition on false advertising. Its use of bots (and hiding those bots) also violates New York’s ban on deceptive acts or practices in the conduct of business. Voodoo’s misconduct is underscored by its claims to prohibit the “[u]se of any automated system (e.g., robots, automatic, macro, programmed, or like entry methods)” in its games. The same goes for its claims to prohibit “any form of gambling” in its games, because it functions as the “house” at a casino, collecting money from participants who compete against—and often lose to—the “house” through Voodoo’s use of algorithms. When Voodoo’s bots win a match or a tournament, Voodoo keeps the amount of the entry fees paid by the human players who lose.

8. Voodoo’s use of bots means all of its games are not skill-based—i.e., based on the skill of the player, with no random events bearing on the result. At best, Voodoo’s games are games of chance, because a live player’s skill level may not have an impact on each game’s outcome. At worst, Voodoo’s conduct is nothing short of theft.

9. As a result of Voodoo’s false and misleading statements and use of bots, Skillz has lost customers (including prospective customers) and has been damaged, including by way of lost market share, revenue, and profits.

II. THE PARTIES

10. Plaintiff Skillz is a Delaware corporation with its principal place of business at 6625 Badura Avenue, Las Vegas, Nevada 89118.

11. Defendant Voodoo SAS is a foreign corporation with its principal place of business at 320 Rue Saint-Honore, 75001 Paris, France.

12. Defendant Esport Newco SAS is a foreign corporation with its principal place of business at 320 Rue Saint-Honore, 75001 Paris, France.

13. Defendant Esport Newco US Corp. is a Delaware corporation. On information and belief, Esport Newco US Corp. is a subsidiary of Defendant Esport Newco SAS, and its principal place of business is located within this District, at 28 Liberty Street, New York, New York 10005.

14. Defendant Esport Newco US Corp. is registered to accept service within this District.

15. On information and belief, Voodoo has a regular and established place of business in this District located at 68 Elizabeth Street, New York, NY 10012.

III. JURISDICTION AND VENUE

16. This is a civil action for false advertising arising under the Lanham Act, 15 U.S.C. § 1125(a) and a related state law claim.

17. This Court has subject-matter jurisdiction over the matters asserted herein under 28 U.S.C. § 1331.

18. This Court has supplemental subject matter jurisdiction over the state law claim pursuant to 28 U.S.C. § 1367(a). The state law claim asserted herein is related to the Lanham Act claim, is built on the same factual predicates, and is part of the same case and controversy.

19. This Court has personal jurisdiction over Voodoo, in part because Voodoo does continuous and systematic business in this District, including by soliciting business from the

residents of this District¹ and by having customers located in this District.² For example, Voodoo has an active authorization to do business on file with the Secretary of State of New York stating that its office is to be located in New York County. Voodoo has listed its registered agent as CT Corporation System, located at 28 Liberty Street, New York, NY 10005. In addition, Voodoo, directly and through agents, regularly does, solicits and transacts business in this District and elsewhere in the State of New York, including through its websites at <https://blitz-app.io/> and <https://www.voodoo.io/>, as well as its various standalone game applications,³ all of which are marketed, offered, distributed to, and utilized by users of mobile devices in this District and throughout the State of New York.

20. In the alternative, this Court has personal jurisdiction over Defendants Voodoo SAS and Esport Newco SAS under Rule 4(k)(2) of the Federal Rules of Civil Procedure. Skillz's Lanham Act claim against Defendants Voodoo SAS and Esport Newco SAS arise under federal law. Further, to the extent Defendants Voodoo SAS and Esport Newco SAS challenge that Defendants Voodoo SAS and Esport Newco SAS are not subject to personal jurisdiction by this Court (and this Court agrees with that argument), Defendants Voodoo SAS and Esport Newco SAS would not, in that case, be subject to jurisdiction in any state's courts of general jurisdiction.

¹ On its website for one of its gaming applications, Voodoo states that it is open to residents in New York, to the exclusion of numerous other states. *Terms and Conditions*, § 2.3, BLITZ – WIN CASH (Aug. 9, 2023), available at <https://blitzwincash.notion.site/Blitz-Win-Cash-Terms-and-Conditions-62f44ddcaac74a8e8104aece9957cb95>. Blitz Win Cash's Terms and Conditions also contain an arbitration clause which states that an "any arbitration hearing will take place in Paris, France (or New York City for U.S. residents)." *Id.* § 11.1.

² For example, <https://www.facebook.com/Blitzwincash/> and <https://www.facebook.com/voodoogames/> identifies Blitz Win Cash players and Voodoo users that are based in this District.

³ Voodoo's gaming applications include, but are not limited to, Blitz Win Cash, Paper.io, HexaBlast Puzzle, Bubble Tower 3D!, and Color Solitaire 3D, all of which are available for free download on the Apple App Store.

Defendants Voodoo SAS and Esport Newco SAS are foreign-based entities, that have a U.S. location in New York, as alleged above. This Court's exercise of personal jurisdiction under Rule 4(k)(2) would be consistent with due process, as Defendants Voodoo SAS and Esport Newco SAS advertise and market their platform throughout the United States and solicit customers throughout the United States.

21. Venue is proper in this District under the provisions of 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claims occurred in this judicial district, and because Voodoo has committed unfair acts in this District and has a regular and established place of business in this District. Further, venue is proper as to Voodoo SAS and Esport Newco SAS under 28 U.S.C. § 1391(c)(3) as they are foreign entities.

IV. FACTUAL ALLEGATIONS

A. Skillz's Innovations Helped Establish Today's Mobile Gaming Industry

22. Skillz was founded in October 2012 in Boston, Massachusetts.

23. At that time, despite the popularity of video games, video gamers had limited to no options to compete and profit from their skill and dedication. Although athletes in physical sports could earn millions of dollars through competition—not to mention recognition, respect, endorsements, and countless other opportunities—the technology to afford video gamers similar opportunities had not yet been developed. Skillz now awards approximately \$2 million in prizes to players each week.

24. Skillz makes a mobile gaming platform, also referred to as an eSports platform. Rather than hoard its technology, Skillz opened its platform to third-party game developers to maximize the impact and reach of its innovation.

25. To create the Skillz platform, Skillz developed several groundbreaking technologies.

26. First, to guarantee the fairness and integrity of every competition on the Skillz platform, Skillz developed a technology that allows head-to-head gameplay between competitors within an online digital game competition, while also allowing games to be different across different competitions. This novel technology allows competitions to be skill-based even when the games have random elements associated with them, such as the starting hand and deck in a head-to-head game of solitaire.

27. In addition, to ensure that players can compete for cash in compliance with restrictions against cash-based competitions in certain states—and that players could be discouraged from cheating given the real-money stakes—Skillz developed technology that allows only players in states that allow cash-based competitions to play for real money and creates an electronic record of their in-game actions as an anti-cheating measure. By determining players' locations via GPS, cash-based competitions can be offered to users anywhere those competitions are permitted. And, by maintaining electronic records of each competitor's in-game actions that are also made available to other competitors, the possibility of cheating is minimized.

28. Fueled in part by Skillz's revolutionizing technology and collaborative business model, the mobile gaming industry exploded, and Skillz became one of the fastest growing companies in the United States.

29. Skillz's technology and drive has helped launch mobile gaming into the mainstream. Though Skillz's impact cannot be quantified in numbers alone, the numbers speak volumes.

30. The first Skillz-powered gaming app went live in April 2013. By July 2014, Skillz had paid out over \$1 million in cumulative prize money. By June 2015, that number had increased to \$10 million. In December 2015, it reached \$20 million.

31. In January 2016, Skillz launched cross-platform multiplayer technology allowing Android and iOS users to play in the same competitive video game tournaments. That year, Skillz accounted for 46% of all mobile gaming prizes awarded.

32. In November 2017, Skillz launched multi-app chat technology, allowing players to communicate on its platform as they play.

33. As of the most recent fiscal year, the Skillz platform has over 2.1 million monthly active users and hosts an average of over 1.5 million daily tournaments, including 780,000 paid entry daily tournaments, offering over \$79 million in prizes each month.

34. In the wake of Skillz's revolutionary advancements, mobile gaming has attracted billions of dollars of investment from traditional sports teams and leagues, professional athletes, pop stars, private equity, media moguls, Fortune 100 corporations, and a diverse array of game publishers.

35. Skillz's rise has fueled the growth of an industry whose market size already eclipses music, movies, and television.

B. Skillz Connects Real Players In Head-To-Head Tournaments

36. The Skillz gaming application is available for free download on the Apple App Store and the Samsung Galaxy Store.

37. Skillz does not primarily develop the games played on its platform itself—Skillz helps game developers enable social competition in their own games.

38. The Skillz platform matches live users in head-to-head tournaments based on their relative skill levels such that players of the same skill level play against each other.

39. The Skillz platform also allows users to enter bracketed tournaments.

40. Players can choose from hundreds of games to play on the Skillz platform. Some of Skillz's most popular games include Solitaire Cube, 21 Blitz, Blackout Bingo, and Bubble Cube 2.

41. Skillz's model relies on the concept of player liquidity—which refers to the degree to which one player will find an opponent who wants to play a match.

42. The higher the player liquidity, the more likely that players will find an appropriate opponent quickly; the lower the player liquidity, the harder it is to find a match and the longer it takes to find a match.

43. This promise of fair and quick matchmaking matters tremendously to users, who want to play evenly matched contests without the risk of being steamrolled by an exponentially more experienced and skilled player—and be matched with competitors with little to no delay.

44. Skillz uses algorithms to match players based on ability level and game history to ensure that each tournament is fair. Most matching is done asynchronously. In asynchronous games, both players play the same match with the same conditions, but they do not have to play at the exact same time. The moves that one player makes do not affect the other player's game.

45. To compete in Skillz cash competitions, a user has to have a mobile device, be over the age of 18, and be located in an area of the world where cash gameplay is available.

46. Skillz does not use, operate, or enable computers or artificial competitors, i.e., “bots,” to play and win its cash games.

47. Many of Skillz's games include a chat function, which enables users to chat live with their opponents.

48. Skillz also provides its users with chat rooms that provide a forum for members of the Skillz community to communicate, answer questions and get to know their fellow players.

49. Skillz enables players to access the user profile of their competitors and other users. A user profile may contain information about a player's history and skill level, their profile avatar,, and physical location.

C. Voodoo Capitalizes on Skillz's Success

50. Voodoo currently offers several mobile gaming applications, including Blitz Win Cash—all in which players can compete to win cash prizes. The Blitz Win Cash platform offers several games within its application.

51. Voodoo's games are similar to versions offered on the Skillz platform—namely Solitaire Cube, 21 Blitz, Blackout Bingo, and Bubble Cube 2—and they directly compete for users with the analogues available on Skillz's platform.

52. In 2022, Voodoo reportedly surpassed six billion downloads, gaining one billion downloads in nine months.⁴

53. Voodoo's gaming applications are available for free download on the Apple App Store and the Google Play Store.

54. By popularity, Blitz Win Cash is currently the #8 ranked application in Apple App Store's "Casino" category.

55. Voodoo users live, and play Voodoo games, within this District.

56. Because Skillz and Voodoo offer similar games and platforms, with both offering cash prizes, Skillz and Voodoo compete for the same users and the same prospective users.

57. Furthermore, a typical user would not switch back and forth between Skillz and Voodoo. Both Skillz and Voodoo offer in-game rewards that players accumulate by reaching

⁴ Aaron Astle, *Voodoo surpasses 6 billion downloads across games and apps*, POCKETGAMER.BIZ (Feb. 15, 2022) <https://www.pocketgamer.biz/news/78161/voodoo-passes-six-billion-downloads/>.

various accomplishments. The more one plays, the more in-game rewards the player can obtain. Likewise, the more one plays, the more one can “rank” up within the game, increasing the player’s prestige and accolades within the game. As a result, an individual player would be motivated to choose and stick with one platform to focus his or her efforts to attain the most in-game rewards, accolades, and other accomplishments.

58. As a result, Skillz and Voodoo are direct competitors in what can be described as a zero-sum game—in many cases, Voodoo’s gain is Skillz’s loss.

59. As noted above, player liquidity is a crucial aspect of Skillz’s and Voodoo’s platforms. Players expect to be quickly matched against a competitor, and any delay in the matching could result in the player losing interest—and switching platforms, permanently. The more players that are active on the platform, the faster that players can be matched against each other, as there will be a wider pool of players with which to find similarly-skilled players to match up against.

60. Skillz’s games utilize a head-to-head matchup, where two players are matched up against each other, for a one to one matchup.

61. Voodoo’s games utilize head-to-head matchups, like Skillz, as well as multiplayer tournaments, where players compete against several other players. Some of these tournaments offer up to \$500 in cash prizes.⁵

62. Because these tournaments involve more players, each of whom must submit an entry fee, the cash prizes are larger. The prospect of having a larger cash prize, but the same entry fee, is enticing to many users.

⁵ Blitz – Win Cash, *Need extra MONEY? Play Blitz Now!*, FACEBOOK, <https://www.facebook.com/reel/908835760993240> (last visited June 28, 2024).

63. Indeed, Voodoo's cash prizes are funded by the entry fees of all the players in the game. That is, each player in the game pays an entry fee. Upon information and belief, Voodoo takes a cut of this cash for itself. Then, after taking its cut, Voodoo divides the remaining funds into cash prizes for other players.⁶

64. In part because of Voodoo's tournament-based games, which offer the chance at larger cash prizes, some users of Skillz have migrated over to Voodoo, and some prospective users who may have used Skillz now sign up instead with Voodoo.

65. Voodoo claims to match users into games based on relative skill level such that all the players in one game are the same skill level. However, while Skillz's head-to-head games require only two players, Voodoo's tournament-based games require multiple players to fill a game. Because all of the players in any given game must purportedly be at similar skill levels, a significantly larger pool of players must be active as games are being filled to find enough similarly-skilled players to populate the tournament.

66. Voodoo's games, therefore, require a higher player liquidity than Skillz's games. In that same vein, Voodoo's games are at a greater risk of failing to launch if player liquidity does not constantly remain high.

67. Voodoo matches players in tournaments faster than would be expected if users were matching with other live human players, indicating that Voodoo creates an artificially high player liquidity on its platform.

⁶ *Blitz FAQ: How do I win cash?*, BLITZ – WIN CASH, available at <https://blitzwincash.notion.site/How-do-I-win-cash-1d7d080de5b445fc9ddd0b99dfbca1f0> (last visited June 28, 2024).

D. Voodoo Falsely Advertises That It Does Not Allow Bots, That Its Games Are Fair and Skill-Based, and That Its Users Compete Against Similar Players

68. Voodoo advertises to the public that all of its games are fair and skill-based. Voodoo also advertises that its users compete against other similarly-skilled players, and outright states that its competitors are all “real players”—not “bots.” Voodoo also tells the public that it does not have a vested interest in who wins or loses, and that it does not profit on the outcome of its tournament. These advertisements are false.

69. For instance, in the FAQ’s on its website for Blitz Win Cash, Voodoo states: “Although our matchmaking algorithm tries its best to match opponents of the same level, it can happen that there are not enough players of a given level at a specific time. You will not get matched with an opponent right away in these cases.”⁷ This implies that a player will only be matched with other live humans.

70. In addition, the Blitz Win Cash FAQs state that opponents are matched based on skill level, and that Voodoo’s “team” does not interfere in creating matches:⁸

How does matchmaking work?

Our matchmaking system matches at best opponents of a similar level and who wish to play the same game simultaneously.

Players competing in a match all have a fair chance of winning to guarantee a fun experience for everyone.

The matchmaking algorithm improves in time at every game you play. The more you play, the more you will be matched with players with close skill levels.

⁷ *Blitz FAQ: What is a “pending” game?*, BLITZ – WIN CASH, available at <https://blitzwincash.notion.site/What-is-a-pending-game-0d5f29a068814a6ea91e46096f697b26> (last visited June 28, 2024).

⁸ *Blitz FAQ: How does matchmaking work?*, BLITZ – WIN CASH, available at <https://blitzwincash.notion.site/How-does-matchmaking-work-87dd5fb1a1724a30a524c2ab88ce4510> (last visited June 28, 2024).

Our team will never interfere in any case with the matchmaking system, which is entirely automatic.

71. On the Google Play Store, Blitz Win Cash advertises, “With no bots allowed, you’ll play against real players worldwide in daily challenges, weekly contests, and multiplayer tournaments.”⁹

72. On its Apple App Store preview page, Voodoo’s Blitz Win Cash also claims: “With no bots allowed, you’ll play against real players worldwide in daily challenges, weekly contests, and multiplayer tournaments.”¹⁰

73. Voodoo’s Blitz Win Cash Apple App Store preview page goes on to state that: “This is not just any gaming app, it’s a fair, skill-based competition app.”¹¹

74. Voodoo’s publicly-available descriptions of Blitz Win Cash represent that games on the application are skill-based and played by “players.”

75. Voodoo’s publicly-available descriptions of Blitz Win Cash represent that games on the application are “fair.”

76. Suspiciously, Voodoo (unlike Skillz) does not provide a function to chat with other players.

77. Similarly, Voodoo players cannot access a competitor’s gaming history, while Skillz players can.

78. Voodoo has responded to negative user reviews—including those suggesting its games may be fixed through Voodoo’s use of bots—by claiming users “always have a fair chance

⁹ *Blitz – Play GamesWin*, GOOGLE PLAY STORE, https://play.google.com/store/apps/details?id=app.wincash.blitz&hl=en_US&gl=US (last visited June 28, 2024).

¹⁰ *Blitz - Win Cash*, APPLE APP STORE, <https://apps.apple.com/us/app/blitz-win-cash/id1540981482> (last visited June 28, 2024).

¹¹ *Id.*

to win!”¹² Voodoo regularly denies and refutes customers’ accusations that it deploys bots. Voodoo also responds to users who make no mention of bot use that Voodoo does not use bots.

79. Pasted below are examples of actual customer reviews from Apple’s App Store in which users express suspicion and frustration that Voodoo is using bots, along with Voodoo’s publicly-available responses:¹³

80. For example, user Rigged124 writes, “Rigged they use bots it’s impossible to win.”

Scam

10/07/2024

Rigged124



Rigged they use bots it’s impossible to win.

Developer Response

10/11/2024

No bots are playing on Blitz. You are always matched with players of a similar level and experience on Blitz. This way, you always have a fair chance to win! If you want to check the fairness of the games, you always have a replay of your opponent’s game provided after your match!

81. Likewise, user KetchupKermit complains that opponents are “[n]ot even real people.”

I hate this game

1 year ago

KetchupKermit



Not even real people. You win a few games and then you lose even more. It’s just an infinite cycle of gaining nothing. Don’t waste your time.

Developer Response

1 year ago

Thank you for your feedback. We are sorry that your experience at Blitz didn’t reach your expectations.

¹² *Blitz - Win Cash: Ratings and Reviews*, APPLE APP STORE, <https://apps.apple.com/us/app/blitz-win-cash/id1540981482> (last visited June 28, 2024).

¹³ See Ex. A (user reviews suspecting bot use). User reviews have been reproduced for readability in full in the Exhibits attached hereto.

Please remember that no bots are operating on Blitz. You are always matched with real players and given a fair chance to win. Every match is providing a replay allowing you to check the fairness of your match.

82. User KetchupKermit (directly above) complains that “[y]ou win a few games and then you lose even more. It’s just an infinite cycle of gaining nothing.” This potentially shows that Voodoo either deploys bots that allow users to win when they first start playing, or matches them with humans when they first start playing—only to find inconsistencies and suspect Voodoo is using bots later on.

83. In response to user kunalme criticizing Blitz Win Cash as the “[w]orst app ever[,]” Voodoo responds, “No bots are operating on Blitz.” Even though kunalme does not complain about bots, Voodoo, unprompted, disclaims bot use.

Worst app ever don’t

04/09/2024

kunalme

★ ★ ★ ★ ★

Fraudulent Worst app ever dont play to loose all your money.

Developer Response

10/03/2024

No bots are operating on Blitz.

84. Ironically, Voodoo’s responses to its reviews might even be written by bots themselves. Notably, in response to users Rigged124 and KetchupKermit (above), Voodoo echoes three repeated points: (1) no bots are operating on Blitz Win Cash; (2) users are matched with real players; and (3) users are given a fair chance to win.

85. Blitz Win Cash’s Terms and Conditions do not inform users that Voodoo matches users against Voodoo’s bots. Rather, Blitz Win Cash’s Terms and Conditions state in part:

Our games also provide You with the option to play against other people in Competitive Modes requiring You to pay an entry fee.¹⁴

86. Blitz Win Cash’s Rules state that “[t]he rewards granted to the different participants in a Match are calculated based on their ranking in the Match. Every entrant will be ranked based on the number of points scored during the game[,]” which represents that its games are skill-based and fair.¹⁵

87. Blitz Win Cash’s Rules further imply that the participants in these tournaments—referred to as “players” and “users”—are live human players. The Rules state that games are “constituted through asynchronous random matchmaking between players who have chosen to play the same game. Each user will be able to enter a given Match only once and subsequently cannot submit more than one score in a Match. If the number of required players is not met 24 hours after the last player entry into the Match, the Match will be canceled and all entry fees refunded to the players.”¹⁶ This language strongly suggests that all players are live humans.

E. Voodoo Deceives Consumers and Steals Market Share from Skillz By Using Bots

88. Voodoo deploys bots—i.e., computer algorithms—to rig tournaments in its favor. Voodoo uses bots to simulate real players and to fix the outcome of matches. Because Voodoo controls the outcome of its matches, it controls exactly how much its human players lose—and how much of the entry fees Voodoo keeps.

¹⁴ *Terms and Conditions*, § 2.2, BLITZ – WIN CASH (Aug. 9, 2023), available at <https://blitzwincash.notion.site/Blitz-Win-Cash-Terms-and-Conditions-62f44ddcaac74a8e8104aece9957cb95>; *see also Rules*, § 2.2(ii), BLITZ – WIN CASH, available at <https://blitzwincash.notion.site/Blitz-Win-Cash-Rules-bf6705d221804934b569314c4eba370d> (last visited June 28, 2024) (“All users participating in the Match will be presented with the exact same game, environment, and constraints. Only skill will allow a user to score better than their opponents and win a prize.”).

¹⁵ *Rules*, § 2.1(ii), BLITZ – WIN CASH, available at <https://blitzwincash.notion.site/Blitz-Win-Cash-Rules-bf6705d221804934b569314c4eba370d> (last visited June 28, 2024).

¹⁶ *Id.* § 2.(i).

89. Indeed, Voodoo manipulates the outcome of its tournaments to place human players in certain spots (often, the second- or third-place spots) to make the outcomes of the tournaments seem believable, such that Voodoo takes as much of the players' entry fees as possible on an ongoing basis. What is more, Voodoo controls the *particular* spot a player earns (again, often second- or third-place spots) to induce them to keep playing by letting them win just enough.

90. In fact, individual human players in five "player" Voodoo tournaments are often the *only* humans that play in those tournaments—with the other four competitors being Voodoo's bots. When Voodoo's bots place in the first-place spot (as is frequent), Voodoo's first place bot wins the highest prize of the tournament.

91. At least one former Voodoo employee has confirmed Voodoo's use of bots in cash tournaments.

92. On information and belief, Voodoo makes a profit on every tournament played by its users, and its fraudulently-earned revenues are well into the hundreds of millions of dollars.

93. Voodoo's use of bots steals market share and revenue from Skillz.

94. Voodoo's use of bots is at least partially driven by its lack of player liquidity. In order for real cash games to be launched on a platform successfully, the platform must have a sufficient level of player liquidity to match players at the same skill level. Legally compliant companies like Skillz must make substantial investments to acquire enough users to establish sufficient player liquidity. On the other hand, companies like Voodoo that use bots to simulate human players can artificially inflate their player liquidity—with little or no user acquisition costs—and increase the number of "competitors" that a player can be matched against.

95. As a result of Voodoo's use of bots, Voodoo players are placed into games faster than they would otherwise be able to if the application relied solely on the presence of live human

players, as does Skillz. Voodoo therefore saves substantial user acquisition costs for its games and platform by using bots, has fraudulently grown its market share in the real cash gaming industry (to Skillz's detriment), and is able to provide a multi-player product that a company like Skillz cannot replicate without also using bots—putting Skillz at a clear competitive disadvantage.

96. The short amount of time it takes players to match into a game on Voodoo's gaming platform regardless of the time of day demonstrates Voodoo has a player base that would be impossible but for its use of bots.

97. Additionally, when groups of new live players (who are all at the same skill level) try to match into the same tournament at the same time, they rarely, if ever, match into the same tournament and face each other. This means that player liquidity on Blitz Win Cash is impossibly high and indicates that Voodoo is manipulating matches such that users are not playing other live players. Furthermore, the same "players" appear to enter multiple matches that start and conclude at nearly the same time. Again, this indicates that Voodoo manipulates game play.

98. In fact, in Apple App Store reviews and on social media, a number of Voodoo users have expressed suspicion—and dismay—that Voodoo may be using bots instead of live players on their gaming applications.

99. Voodoo users have also made clear that Voodoo's representations of fairness induced them to use Voodoo's gaming applications.¹⁷ For example, user Robbed21 writes, "I believed and trusted it was a legitimate and fair site." User hdbhdhjjr complains "[t]he game claims to be a fair skills based completion with other players but that is a lie."¹⁸

¹⁷ *Blitz - Win Cash: Ratings and Reviews*, APPLE APP STORE, <https://apps.apple.com/us/app/blitz-win-cash/id1540981482> (last visited Apr. 28, 2024).

¹⁸ See Ex. B (user reviews regarding representations of "fairness").

Victim

05/21/2024

Robbed21

★ ★ ★ ★ ★

Ughhh I believed and trusted it was a legitimate and fair site, but have been taken for my money. I hope they credit it back like they should after trying to call numerous times and complain.

Developer Response

05/23/2024

Blitz Support isn't available by phone. Could you please contact us at Support by email regarding this issue? We will do our best to resolve it as fast as possible!

Fraud and lies

1 year ago

hdhbdhjjr

★ ★ ★ ★ ★

The game claims to be a fair skills based completion with other players but that is a lie. You don't get paired against people in real time. You play a game and then once Blitz knows your score they decide who to pair you with. Some games are paired in minutes and some games are paired hours later... most likely against someone else who they also know the score of their game against. So everything they say is a flat out lie. Deciding who to pair you up against after they know your score is fraud and theft! Its not a 'fair skill based competition' when the computer gets to pair people up after they know the score of both players!

Update. Their response is that 'your score isn't used to find an opponent'. If thats the case then all games should clear in the order that they were played regardless of score. By their own admission this clearly doesn't happen. If you post a high score they delay matching it in order to control the outcome. This is fraud and you should give me my money back!

Developer Response

1 year ago

Update: you will notice that in 1v1 about half of the time you get matched instantly and get the name of the opponent BEFORE you play (so we dont wait to know your score to match you). That is in a case where there is already an opponent available. In the case where there is no pending match to pair you with, we let you play right away so we don't keed you waiting for several minutes (which would be annoying). And as soon as an opponent arrives, we pair him with you (before we know his score) and give him the exact same game. We have no way to know both players score before we match them and matchmaking only takes into account winning history.

Thank you for your feedback. We are sorry that your experience at Blitz didn't reach your expectations.

When you are playing on Blitz, our matchmaking system will find a player of a similar skill level and a similar experience to guarantee fair chances to win for both players. This is why you aren't always playing against another player at the same time.

Your score isn't used to find you an opponent. Your past results and your experience on Blitz are used on the matchmaking system to find you the best opponent possible, giving your [sic] a fair chance of winning.

If you have any issues with our app, please don't hesitate to reach us at Support.

100. Voodoo users have also indicated that Voodoo's representations its games are skill-based induced them to play Voodoo's games.¹⁹ For example, user Omjordan writes, "They tell you your winning is based on skill but it's not so just don't waste your time." Omjordan suggests that, instead of playing Blitz Win Cash, "just go ahead and go to a casino" or "just go buy you a lottery ticket[.]" User avij32 writes, "Much like an online casino, they control in outcome and how successful you are in a game." User avij32 continues, warning that Blitz Win Cash is "NOT skill based. It is luck based."²⁰ These reviews allude to Voodoo using algorithms to manipulate match outcomes.

Scam

1 year ago
Omjordan



Do yourself a favor and don't waste time or money on this app just go ahead and go to a casino at least they offer free play and free food or rewards you can use for both or just go buy you a lottery ticket your odds of winning are still better than this game.

They tell you your winning is based on skill but it's not so just don't waste your time.

¹⁹ *Blitz - Win Cash: Ratings and Reviews*, APPLE APP STORE, <https://apps.apple.com/us/app/blitz-win-cash/id1540981482> (last visited June 28, 2024).

²⁰ See Ex. C (user reviews regarding representations that Voodoo's games are "skill-based").

Developer Response

1 year ago

Thank you for your feedback. We are sorry that your experience at Blitz didn't reach your expectations.

However, all our games are based on skills only, and you can easily review them by watching the Replays for each match played!

Scammers

1 year ago
avij32



Don't play this have even if you're really good. Much like an online casino, they control in outcome and how successful you are in a game. Like on bingo, you can get a whole board covered on a low payout game, but then you go to a higher paying game and all of a sudden, you get 12 numbers in a row that aren't on your board and it ruins the whole game. There is absolutely nothing you can do about it. I just lost a bunch of money because of this. So trust me, do not play this game. It is NOT skill based. It is luck based.

Developer Response

2 years ago

Hello, please drop your username here so we can investigate and refund.

For context, if there is no opponent, the game should expire after 24 hours and the entry fee refunded to your balance.

101. Voodoo users have further indicated that Voodoo's representations of "players" and its implications that these players were live humans (and not bots) induced them to use Voodoo's gaming applications.²¹ User eddiemc3272 complains, "They say your playing other people w[h]ich is a lie other wise they would let us chat like every other game."²²

²¹ *Blitz - Win Cash: Ratings and Reviews*, APPLE APP STORE, <https://apps.apple.com/us/app/blitz-win-cash/id1540981482> (last visited June 28, 2024).

²² See Ex. D (user reviews regarding representations players are real).

Scam

10/29/2024
eddiemc3272



Just like every other game it's a scam. They say your playing other people wich is a lie other wise they would let us chat like every other game. They take your money and the "players" come take it.

It's a fixed game but they sure make you think you have a chance.

Developer Response

11/03/2024

You are always matched with players of a similar level and experience on Blitz. This way, you always have a fair chance to win!

We don't have a chat feature between players to avoid abuse in our community.

102. Player reviews show that Voodoo players play Voodoo's games with the assumption and expectation that they are playing live humans, not bots.

103. Player reviews also show that Voodoo players have lost money playing games on the platform. For example, user Robbed21 (above) complained of "hav[ing] been taken for my money."

104. Voodoo has apparently recognized the negative impact to user experience that comes with bot use, as it *explicitly prohibits the use of bots* in its Rules:

Use of any automated system (e.g., robots, automatic, macro, programmed, or like entry methods) is prohibited. Any attempt by any entrant to use an automated system or to obtain more than one (1) entry by using multiple telephone numbers, devices, identities, or any other methods, will void all of that entrant's entries, and render that person ineligible to receive any of the prizes. Entry materials/data that have been tampered with or altered are void. Blitz - Win Cash reserves the right to disqualify any user if it determines, at its sole discretion, that any user information has been changed or falsified in order to meet eligibility requirements.²³

²³ Rules, § 4, BLITZ – WIN CASH, available at <https://blitzwincash.notion.site/Blitz-Win-Cash-Rules-bf6705d221804934b569314c4eba370d> (last visited June 28, 2024) (emphasis added).

F. By Virtue of Its Use of Bots, Voodoo is At Minimum, Operating a Gambling Platform, In Contravention of New York Law

105. Since 1894, Article I, Section 9 of the New York State Constitution has expressly prohibited gambling, apart for a few limited, irrelevant exceptions, and the New York Penal Law has long recognized crimes for promoting gambling and for maintaining gambling devices and records.

106. Under New York law, gambling occurs when a person “stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he will receive something of value in the event of a certain outcome.” N.Y. Crim. Law § 225.00(2). Furthermore, a “contest of chance” is defined as “any contest, game, gaming scheme or gaming device in which the outcome *depends in a material degree upon an element of chance, notwithstanding that skill* of the contestants may also be a factor therein.” N.Y. Crim. Law § 225.00(1) (emphasis added).

107. Because Voodoo users play to win money, and because Voodoo uses bots to manipulate match outcomes, Voodoo’s gaming platform meets this definition of gambling. For example, bots that mimic players introduce a level of randomness—an element of chance—even if they have some predetermined skill programming. No matter how skilled a player becomes, that player’s outcome turns on Voodoo’s algorithms rather than the player’s skill. Similarly, a bot that fixes game scores would prevent a player from winning based on skill alone. In other words, any element of skill in Voodoo’s games is reduced in comparison with the randomness infused into the process by the use of bots. As a result, and at a minimum, Voodoo users are less likely to influence the outcome of a game by virtue of their relative skill level.

108. For Voodoo’s games to *not* be considered illegal gambling, its games must be significantly more based on skill than chance. Indeed, skill must predominate and be

overwhelmingly more influential than chance in deciding the winners of its games. But because Voodoo uses bots, Voodoo's games are not games of skill.

109. In fact, Voodoo's practices are *more* pernicious than mere illegal gambling, as Voodoo, through its use of bots, is able to control when players win or lose—and when Voodoo keeps the entry fees and prizes. Recognizing that New York's Penal Code and similar laws in other jurisdictions are directly contrary to Voodoo's model, Voodoo markets itself as a skill-based platform, although it is anything but.

FIRST CAUSE OF ACTION
(False Advertising Under the Lanham Act (41 U.S.C. § 1125(a)(1)))

110. Skillz re-alleges and incorporates the allegations in each of the paragraphs in this Complaint as if fully set forth herein.

111. On websites and application interfaces directed towards consumers, Voodoo represents that its gaming applications are “fair.”

112. Voodoo also represents that its games are skill-based.

113. Voodoo promises its users that “no bots are playing” on its applications.

114. Voodoo advertises that users of its applications will be matched with “players” and “individuals,” while its player base includes fake scores that it creates and deploys through its use of computer algorithms or bots.

115. Voodoo also implies to users that Voodoo has no vested interest in who wins or loses. Blitz Win Cash's Terms and Conditions state that “some employees may be allowed to hold a public playing Account or to compete against public players *only for testing purposes* intended to improve Our Services experience. In such a case, the public player competing against an employee will be credited back and *the employee will not receive any benefit* from the Account.”

116. Based on these representations of fairness, skilled-based play, live opponents, and Voodoo's not having a financial interest in the outcomes of its matches, Voodoo users pay fees to enter gaming matches and tournaments hosted on Voodoo platforms, and act reasonably in doing so.

117. These representations regarding fairness, skilled-based play, live opponents, and Voodoo's not having an interest in the financial outcome of its matches and tournaments are literally false.

118. Voodoo's representations are false and misleading because Voodoo controls the outcome of the matches and whether its real players win or lose.

119. Because Voodoo deploys bots in its games and controls the outcome of its games, Voodoo's games are not skill-based, but are instead dependent on the parameters and algorithms created by Voodoo.

120. Because Voodoo deploys bots in its games and controls the outcomes of its games, Voodoo's games are not fair.

121. Voodoo has a vested interest in the outcome of matches and tournaments because it controls whether players win or lose.

122. On information and belief, Voodoo is required to certify to financial institutions that process its customers' payments for its games, as well as third parties including the Apple App Store, that Voodoo does *not* have a vested financial interest in the outcome of Voodoo's tournaments in order to legally access those institutions' services and platforms. Indeed, the fact that Voodoo's games are available on the Apple App Store—and that Voodoo players' funds are processed by U.S. financial institutions—means Voodoo *must* be making material misrepresentations to those third parties. A federal court in the Northern District of California has

already ruled that statements made by AviaGames, Inc., another mobile gaming company that also uses bots, that it did not keep money or prizes associated with its games were fraudulent.

123. In the alternative, Voodoo's representations of fairness, skilled-based play, live opponents, and not having a financial interest in the outcome of its games are literally false by implication, as Voodoo's representations (at the very least) imply that the outcomes of the games are determined exclusively by the skill level of live humans.

124. Further, Voodoo's representations of fairness, skilled-based play, live opponents, and not having a financial interest in the outcome of its tournaments are literally false by omission, as Voodoo does not inform the users that the outcome of its games are determined by Voodoo's algorithms.

125. For the same reasons, Voodoo's representations of fairness, skilled-based play, live opponents, and not having a financial interest in the outcome of its games are materially misleading.

126. *Even if* Voodoo's use of algorithms to control the outcome of its games did not render its games unfair or games of chance, Voodoo would still be deceiving consumers because they believe Voodoo's games are played by live individuals, as opposed to bots, and that Voodoo does not have a vested financial interest in the outcome of its games.

127. Voodoo's representations have deceived users of Voodoo's games.

128. By making these false representations to consumers, including within advertisements, on its website, within its game applications, and in response to user reviews, Voodoo has diverted at least Skillz's player base, thereby harming Skillz, including by way of lost revenue, market share, and profits in an amount to be proven at trial.

SECOND CAUSE OF ACTION
(Violations of New York General Business Law (GBL) § 349)

129. Skillz re-alleges and incorporates the allegations in each of the paragraphs in this Complaint as if fully set forth herein.

130. On websites and application interfaces directed towards consumers, Voodoo represents that its gaming applications are “fair.”

131. Voodoo also represents that its games are skill-based.

132. Voodoo advertises that users of its applications will be matched with “players” and “individuals.”

133. Voodoo deploys bots or algorithms which control the outcome of the matches and whether its real players win or lose (or, in the case of tournaments, their spot on the leaderboard).

134. Voodoo also implies to users that Voodoo has no vested interest in who wins or loses. Blitz Win Cash’s Terms and Conditions state that “some employees may be allowed to hold a public playing Account or to compete against public players *only for testing purposes* intended to improve Our Services experience. In such a case, the public player competing against an employee will be credited back and *the employee will not receive any benefit* from the Account.”

135. Based on Voodoo’s representations of fairness, skilled-based play, live opponents, and not having a financial interest in the outcome of its tournaments, Voodoo users pay fees to enter gaming tournaments hosted on Voodoo platforms, and act reasonably in doing so.

136. Voodoo’s representations are false and misleading because Voodoo deploys algorithms in its gaming platforms that control the outcome of its matches.

137. Because Voodoo deploys bots in its games that influence the ultimate score, Voodoo’s games are not skill-based.

138. Because Voodoo deploys bots in its games, Voodoo's games are not fair because they are rigged.

139. Because Voodoo keeps a user's full entry fee when Voodoo's bots win and the player loses, Voodoo has a vested interest in the outcome of its games. When a Voodoo bot or fake score wins a prize—generated from entry fees paid by human players—Voodoo keeps that prize money.

140. In making these representations, Voodoo advertises itself as hosting matches and tournaments comprised of live players.

141. Based on these representations of fairness, skilled-based play, live opponents, and not having a financial interest in the outcome of its games, Voodoo users pay fees to enter gaming matches and tournaments hosted on Voodoo platforms, and act reasonably in doing so.

142. These representations are false because Voodoo uses bots in its gaming platforms, and Voodoo keeps a user's entry fee when these bots rig the match in favor of Voodoo.

143. These representations have deceived consumers of Voodoo's gaming applications.

144. Voodoo's use of bots further harms the public because it transforms its games into—at a minimum—illegal gambling.

145. Voodoo's representations entice the public into participating in illegal gambling, unwittingly.

146. By falsely holding itself out to the public, Voodoo diverted Skillz's player base, thereby harming Skillz, including by way of lost revenue, market share, and profits in an amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in its favor as follows:

A. For temporary, preliminary and permanent injunctive relief prohibiting Voodoo, its agents, or anyone working for, in concert with or on behalf of Voodoo from engaging in false or misleading advertising with respect to its gaming applications and/or violating the Lanham Act, 41 U.S.C. § 1125(a)(1), which relief includes but is not limited to removal of all false or misleading advertisements and corrective advertising to remedy the effect of Voodoo's false advertising;

B. For an order requiring Voodoo to correct any erroneous impression persons may have derived concerning the nature, characteristics, or qualities of its gaming applications, including without limitation, the placement of corrective advertising and providing written notice to the public;

C. Awarding Skillz actual, compensatory, and consequential damages;

D. Awarding Skillz punitive damages;

E. Awarding Skillz lost revenues;

F. Awarding Skillz the revenues and any profits obtained by Voodoo as a consequence of Voodoo's wrongful conduct;

G. Enjoining Voodoo from continuing its unlawful conduct, including but not limited to, using bots in its games and enjoining Voodoo from advertising its gaming applications as fair, skill-based, and involving human players;

H. Costs and expenses in this action;

I. An award of prejudgment and post-judgment interest; and

J. Such other and further relief as the Court may deem just and proper.

V. DEMAND FOR JURY TRIAL

Skillz hereby demands trial by jury for all causes of action, claims, or issues in this action that are triable as a matter of right to a jury.

Dated: July 1, 2024

KING & SPALDING LLP

By: /s/ Craig Carpenito

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